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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,727	11/08/2001	Jeffrey A. Welton	THE 0243 PUS	6142
22045	7590	11/07/2003	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			PRICE, CARL D	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 11/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,727

Applicant(s)

WELTON ET AL.

Examiner

CARL D. PRICE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, **unless** the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show a reference character associated with the "internal elements" which cooperate with the splines as described in the specification (see page 6, lines 19-21). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral

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“38”, designating the splines, is missing from the drawing figures. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a recess, formed in at least one of said cap **and said peripheral wall**” (claim 2) must be shown or the feature(s) canceled from the claim(s). While the drawing figures show (figure 4) the recesses formed in the cap there is no showing of the recesses in the peripheral wall (28). No new matter should be entered.

Specification

The disclosure is objected to because of the following informalities: the specification does not include a reference character associated with the “internal elements” which cooperate with the splines (see page 6, lines 19-21).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are vague and indefinite. For example, in claim 1, line 3, there is no proper antecedent basis for "said plurality". For the purpose of examination it is assumed that "said plurality" should be - - said plurality of fingers - -. In line 5 of claim 1, the phrase "a cap having an overlapping fingers" is confusing. For the purpose of examination it is assumed this phrase should be - - having over lapping fingers - -.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

he has abandoned the invention.

the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Claims 7-9: rejected under 35 U.S.C. 102(b)

Claims 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Berkelder (U.S. Patent No. - 4565523).

Berkelder shows and discloses (figures 1-2) an upper flame port defining member (14,15) supporting a stem (9) having alignment splines (26) for engaging a cooktop mounting base collar (1,4).

Claims 7-10: rejected under 35 U.S.C. 102(b)

Claims 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by JP '929 (Japanese 60-245929)

JP '929 shows and discloses (figures 1-5) an upper flame port defining member (1A) supporting a stem having alignment splines (20b) for engaging cooktop (12) mounting base collar (1). The mounting base (1) of JP '929 includes an igniter element (8,10) arranged in a predetermined alignment with a flame ports (1A).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 are rejected under 35 U.S.C. 103(a)

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meslif (GB 2240168) in view of JP '113 (Japanese '59-52113).

Meslif shows and discloses (figures 1 and 2) a burner head (3) and co-aligned cap (2) both in the shape of a plurality of fingers. A plurality of flame ports (12) extends along the peripheral wall of each of the plurality of fingers. Meslif however does not show a recess

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including scalloped lip in the form of a continuous wall in the cap wherein there is an expanded transfer area between adjacent ports.

JP '113 teaches, from the same burner field of endeavor as Mesliff, a burner cap (figures 5-8) show a flame stabilization recess (7,52,53) including scalloped lip (see 53,54) in the form of a continuous wall in the periphery of the cap wherein there is an expanded transfer area (52,53) located between adjacent ports (55).

In regard to claims 1-6, for the purpose of providing additional stability to the flame during burner operation, it would have been obvious to a person having ordinary skill in the art to modify the peripheral edge of the Mesliff burner cap to include scalloped lip in the form of a continuous wall in the periphery of the cap wherein there is an expanded transfer area located between adjacent ports, in view of the teaching of JP '113.

Claims 10 and 11: rejected under 35 U.S.C. 103(a)

Claims 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '929 in view of Meslif.

JP '929 shows and discloses (figures 1-5) an upper flame port defining member (1A) supporting a stem having alignment splines (20b) for engaging cooktop (12) mounting base

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collar (1). The mounting base (1) of JP '929 includes an igniter element (8,10) arranged in a predetermined alignment with a flame ports (1A).

Meslif teaches, form the same cooktop burner field of endeavor as JP '929, a burner head (3) and co-aligned cap (2) both in the shape of a plurality of fingers. A plurality of flame ports (12) extends along the peripheral wall of each of he plurality of fingers.

In regard to claim 11, for the purpose of providing an increase in the amount of heat transfer, it would have been obvious to a person having ordinary skill in the art to modify the burner of JP '929 be in the shape of a plurality of fingers, in view of the teaching of Meslif.

Claims 12-14: rejected under 35 U.S.C. 103(a)

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (U.S. Patent No. -6299436) in view of Saleri (U.S. Patent No. - 6030207).

Huang shows and discloses (figure 2) a including a body with a plurality of fingers, a burner head with a central (22) and peripheral wall (28), a base (50) including a first indexer (43) and a burner cap (40) including a plurality of spline shaped second indexers (36) for alignment of the cap with the burner head. Huang however does not disclose an igniter mounted in the burner base (50).

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Salieri teaches, from the same cooktop burner field of endeavor as Huang, positioning an ignition element in a predetermined alignment with a burner head port (4) and mounting the element in a burner base (1).

In regard to claims 12-14, for the purpose of providing suitable and reliable igniter for the burner, it would have been obvious to a person having ordinary skill in the art to modify the base (50) of Huang to include an ignition element mounted therein and aligned with a flame port, in view of the teaching of Salieri.

Conclusion

See the attached PTO FORM for prior art made of record that is not relied upon, which is considered pertinent to applicant's disclosure.

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is 703-308-1953. The examiner can normally be reached on Monday through Friday between 6:30 am-3:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1148/0858.

A handwritten signature in black ink, appearing to read 'Carl D. Price', with a stylized, flowing script.

CARL D. PRICE
Primary Examiner
Art Unit 3749

CP